

SENATE BILL No. 297

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-23-6; IC 16-19-14; IC 16-37-3-8; IC 34-30-2; IC 36-2-14.

Synopsis: Medical examiners and coroners. Creates the office of the state medical examiner (office) within the state department of health. Requires the creation of regional medical examiner offices to conduct autopsies referred by each county coroner in the region. Sets forth the duties of a regional medical examiner. Requires the office to bill the county of residence of a deceased person on whom an autopsy is performed for the costs of the autopsy. Requires a county coroner to certify a death after the regional medical examiner forwards an autopsy report to the county coroner. Requires a certified child death pathologist within the regional office to: (1) consult with the coroner; (2) conduct certain autopsies; and (3) perform certain duties. Repeals provisions establishing or concerning the commission on forensic sciences.

Effective: July 1, 2009.

Merritt

January 7, 2009, read first time and referred to Committee on Health and Provider Services.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 297

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-19-14 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]:

4 **Chapter 14. Office of the State Medical Examiner**

5 **Sec. 1.** As used in this chapter, "director" refers to the director
6 of the office of the state medical examiner established by section 4
7 of this chapter.

8 **Sec. 2.** As used in this chapter, "office" refers to the office of the
9 state medical examiner established by section 4 of this chapter.

10 **Sec. 3.** As used in this chapter, "regional office" refers to a
11 division of the office of the state medical examiner designated to
12 perform autopsies for county coroners for a specific region of
13 Indiana.

14 **Sec. 4.** The office of the state medical examiner is established
15 within the state department.

16 **Sec. 5. (a)** The state health commissioner shall designate staff to
17 operate the office.

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(b) The staff must include a director of the office.

Sec. 6. (a) The director of the office shall:

- (1) designate staff to operate the regional offices; and
- (2) establish minimum and uniform standards for performance of duties and maintenance of records to provide information to county coroners regarding causes of death for cases investigated.

The standards under subdivision (2) must require excellence in the performance of duties and the maintenance of records.

(b) Each regional office must have, at a minimum, the following staff:

- (1) A forensic pathologist to serve as the regional medical examiner.
- (2) Assistant regional medical examiners.
- (3) A certified child death pathologist who has been certified by the state department under IC 16-35-7-3.
- (4) Staff to support the regional medical examiner and the assistant regional medical examiners.

(c) A regional medical examiner, a certified child death pathologist, and an assistant regional medical examiner may be a full-time employee or may work on contract with the office.

Sec. 7. (a) The state health commissioner shall divide the state into at least five (5) regional medical examiner districts. Each district must have at least one (1) regional office that performs autopsies for county coroners.

(b) In determining the regional structure, the state health commissioner shall consider:

- (1) the population of each region;
- (2) the geographical size of the area covered by each region;
- (3) the availability of trained personnel in each region; and
- (4) the death rate of each region by natural and unnatural causes.

(c) A county may not be divided to create a region.

Sec. 8. (a) Except as provided in subsection (b), each regional office must have facilities for investigating deaths and performing autopsies.

(b) The director of the office may arrange for the use of an existing public or private laboratory for purposes of investigating deaths and performing autopsies.

Sec. 9. Each regional office shall conduct autopsies referred by a coroner as required under IC 36-2-14-6(d).

Sec. 10. Upon receipt of a referral from a coroner under

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IC 36-2-14-6(d), the regional medical examiner shall:

- (1) take charge of the body;
- (2) make inquiries regarding the cause and manner of death;
- (3) reduce the findings to writing; and
- (4) promptly make a full report to:
 - (A) the coroner who referred the autopsy; and
 - (B) the office.

Sec. 11. For each autopsy performed by the office or a regional office, the office shall bill the county of residence of the deceased person on whom the autopsy is performed for the autopsy costs as provided by IC 16-37-3-8(b).

Sec. 12. A regional medical examiner or an assistant regional medical examiner who performs a medical examination or an autopsy is immune from civil liability for performing the examination or autopsy.

Sec. 13. The state department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 16-37-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Except as provided in subsection (c), payment for the cost of an autopsy requested by a party other than the local health official of the county in which the individual died must be made by the party requesting the autopsy **and paid to the office of the state medical examiner as required by IC 16-19-14-11.**

(b) Except as provided in subsection (c), payment for the cost of an autopsy required by the local health officer shall be made from funds appropriated to the local health department **and paid to the office of the state medical examiner as required by IC 16-19-14-11.**

(c) Except as provided in IC 4-24-4-1, if:

(1) an individual who is a resident of Indiana dies in an Indiana county:

(A) in which at least one (1) air ambulance provider is located; and

(B) of which the individual is not a resident; and

(2) an autopsy is performed on the individual:

(A) in the county in which the individual died; and

(B) under the authority of the county coroner in the discharge of the coroner's duties;

the county coroner shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed for the cost of the autopsy.

SECTION 3. IC 34-30-2-64.5 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: **Sec. 64.5. IC 16-9-14-12 (Concerning medical examiners performing certain examinations or autopsies).**

SECTION 4. IC 36-2-14-5.5, AS ADDED BY P.L.225-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5.5. A child death pathologist **of the regional office of the state medical examiner** shall:

- (1) consult with a coroner concerning a death described in section 6.3(b) of this chapter;
- (2) conduct an autopsy of a child as described in sections 6.3(c) and 6.7(b) of this chapter; and
- (3) perform duties described in section 6.7(e) of this chapter.

SECTION 5. IC 36-2-14-6, AS AMENDED BY P.L.225-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

- (1) has died from violence;
- (2) has died by casualty;
- (3) has died when apparently in good health;
- (4) has died in an apparently suspicious, unusual, or unnatural manner; or
- (5) has been found dead;

the coroner shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death. The coroner may hold the remains of the decedent until the investigation of how the person died and the medical investigation of the cause of death are concluded.

(b) The coroner:

- (1) shall file a certificate of death with the county health department, or, if applicable, a multiple county health department, of the county in which the individual died, within seventy-two (72) hours after the completion of the death investigation;
- (2) shall complete the certificate of death utilizing all verifiable information establishing the time and date of death; and
- (3) may file a pending investigation certificate of death before completing the certificate of death, if necessary.

(c) If this section applies, the body and the scene of death may not be disturbed until:

- (1) the coroner has photographed them in the manner that most fully discloses how the person died; and

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(2) law enforcement and the coroner have finished their initial assessment of the scene of death.

However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, ~~is required to perform an autopsy under subsection (f);~~ or is requested by the prosecuting attorney of the county to perform an autopsy, the coroner shall employ a:

- (1) ~~physician certified by the American board of pathology; or~~
- (2) ~~pathology resident acting under the direct supervision of a physician certified in anatomic pathology by the American board of pathology;~~

~~to have the appropriate regional medical examiner perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars (\$50) from the county treasury.~~

(e) ~~if: Except as provided in section 6.3 or 6.7 of this chapter:~~

(1) at the request of:

- (A) the decedent's spouse;
- (B) a child of the decedent, if the decedent does not have a spouse;
- (C) a parent of the decedent, if the decedent does not have a spouse or children;
- (D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or
- (E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;

(2) ~~if~~ in any death, two (2) or more witnesses who corroborate the circumstances surrounding death are present; and

(3) ~~if~~ two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) ~~A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is less than three (3) years old unless an autopsy is performed at county expense. However;~~

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a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

(f) A county coroner shall certify a death after the county coroner has received the autopsy report from the regional medical examiner as described in IC 16-19-14-10.

(g) After consultation with the law enforcement agency investigating the death of a decedent, the coroner shall do the following:

(1) Inform a crematory authority if a person is barred under IC 23-14-31-26(c) from serving as the authorizing agent with respect to the cremation of the decedent's body because the coroner made the determination under IC 23-14-31-26(c)(2) in connection with the death of the decedent.

(2) Inform a cemetery owner if a person is barred under IC 23-14-55-2(d) from authorizing the disposition of the body or cremated remains of the decedent because the coroner made the determination under IC 23-14-55-2(d)(2) in connection with the death of the decedent.

(3) Inform a seller of prepaid services or merchandise if a person's contract is unenforceable under IC 30-2-13-23(b) because the coroner made the determination under IC 30-2-13-23(b)(4) in connection with the death of the decedent.

SECTION 6. IC 36-2-14-6.3, AS ADDED BY P.L.225-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.3. (a) A coroner shall notify:

(1) the local child fatality review team; or

(2) if the county does not have a local child fatality review team, the statewide child fatality review committee;

of each death of a person who is less than eighteen (18) years of age, or appears to be less than eighteen (18) years of age, and who has died in an apparently suspicious, unusual, or unnatural manner.

(b) If a child less than eighteen (18) years of age dies in an apparently suspicious, unusual, or unnatural manner, the coroner shall consult with a child death pathologist **in the regional office of the state medical examiner** to determine whether an autopsy is necessary. If the coroner and the child death pathologist disagree over the need for an autopsy, the county prosecutor shall determine whether an autopsy is necessary. If the autopsy is considered necessary, a child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy within twenty-four (24) hours. If the autopsy is not considered necessary, the

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autopsy shall not be conducted.

(c) If a child death pathologist and coroner agree under subsection (b) that an autopsy is necessary, the child death pathologist or a pathology resident acting under the direct supervision of a child death pathologist shall conduct the autopsy of the child.

SECTION 7. IC 36-2-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign ~~his~~ **the coroner's** verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, ~~his~~ **the deceased person's** name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of official duties, the identity of the deceased must remain confidential.

(e) The coroner, ~~or the~~ coroner's designee, **or regional medical examiner** having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy for case consultation with a pathologist or forensic scientist. The coroner, ~~or the~~ coroner's designee, **or regional medical examiner** having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for training or educational purposes (as defined in

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IC 16-39-7.1-1.5) if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

- (1) the name;
- (2) the address;
- (3) the Social Security number;
- (4) a full view of the face; or
- (5) identifying marks on the body that are unrelated to the medical condition or medical status;

of the deceased individual. A coroner, ~~or~~ coroner's designee, **or regional medical examiner** who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner, ~~or~~ coroner's designee, **or regional medical examiner** releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is confidential. A coroner, ~~or~~ coroner's designee, **or regional medical examiner** who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) Except as provided in subsection (e), the coroner, ~~or the~~ coroner's designee, **or regional medical examiner** having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and
- (2) listen to or copy the audio recording;

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;
- (2) the seriousness of the intrusion into the family's right to privacy;
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and
- (4) the availability of similar information in other public records,

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regardless of form.

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, ~~or the~~ coroner's designee, **or regional medical examiner** who is the custodian of the record.

(j) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(k) If there is no surviving spouse, the notice under subsection (j) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(l) A coroner, ~~or~~ coroner's designee, **or regional medical examiner** who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a Class A misdemeanor.

(m) A person who knowingly or intentionally violates a court order issued under this section commits a Class A misdemeanor.

(n) A person who:

(1) receives autopsy information under subsection (e); and

(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 4-23-6; IC 34-30-2-4.

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